THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25480 OF 2005

DATED:30.11.2005

Between:

V. Thatha Rao

…Petitioner

And

The District Level Committee for Sand Auctions

Rep. by its Chairman, Zilla Parishad Compound,

Machilipantam, Krishna District and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner challenges the action of the first respondent in issuing auction notice dt.14.11.2005 proposing to auction right to quarry sand in Dhamuluru Reach in accordance with A.P.Minor Mineral Concession Rules, 1966 (for short, the Rules), as illegal and arbitrary, and for a consequential direction to the respondents to consider the representations of the petitioner dt.13.11.2005, 28.10.2005 and 28.6.2005 for extension of lease. The case of the petitioner is that he became highest bidder in the auction conducted on 11.10.2002 allegedly for a period of two years till 30.10.2004. According to the petitioner, after expiry of the lease, on his request, temporary lease was granted for a period of sixty days on petitioner paying the lease amount with ten per cent enhancement. The petitioner made

representations, as above, for extension of the lease, in vain, and the sand reach, which was given to the petitioner earlier is proposed to be leased out by conducting public auction and therefore present Writ Petition is filed.

The grant of lease to quarry sand in river reaches is governed by Rules 9-A to 9-X of the Rules. As per Rule 9-B of the Rules, a sand reach can be leased out in public auctions for a period of one year subject to condition that such lease can be renewed for another year. Such eventuality would arise only when the first respondent decides not to hold auction and grant renewal to the successful bidder of the previous year. In this case, admittedly, the first respondent decided to conduct auction. Therefore, the petitioner has no right to enforce by filing Writ Petition. This question is squarely covered by an un-reported judgment of this Court in **Sri Kanaka Durga Agnikula Kshatriya Sand Quarry, Boatsmen & Fishermen Cooperative Society Limited v. The District Panchayat Officer** (W.P.No.20854 of 2005 and batch, dt.22.9.2005). In the said judgment this Court held as under.

> A reading of the Rules, as noticed hereinabove, would show that the proviso to Rule 9-L of the Rules confers a limited right on the existing lessees to continue the lease for a period of sixty days on payment of ten per cent enhanced lease amount. That situation would arise only when the sand reach is not put to auction for the subsequent year. Except to the limited extent, a lessee who is granted the right to quarry sand for a specified period cannot claim any right for extension of lease. The Rule 9-B(1) of the Rules is only enabling provision under which the competent authority can grant lease for a period of two years.

The learned counsel for the petitioner and the learned Assistant Government Pleader for Panchayat Raj do not dispute the legal position.

Following the above judgment, the Writ Petition is dismissed.

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(V.V.S.RAO, J)

30.11.2005

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